

**Remarks by Principal Deputy High Representative Raffi Gregorian
to the Helsinki Committee of the U.S. Congress
November 8, 2007**

Mr. Chairman, Members of the Committee, thank you for inviting me to today's hearing on outstanding issues in the post-conflict recovery of Bosnia and Herzegovina. This hearing occurs at a critical if not vital moment in the history of post-Dayton Bosnia. Its very survival could be determined in the next few months if not the next few weeks.

Although I am a member of the Department of State, I am here today in my capacity as the Principal Deputy High Representative, presenting the views of the Office of the High Representative (OHR). In June 2006, OHR's international oversight body, the Peace Implementation Council (PIC) Steering Board, agreed that, subject to a review of the situation in February 2007, OHR would be able to close in mid-2007 and hand-over to an enhanced EU mission.

Indeed, 18 months ago this seemed to be the right choice. Bosnia and Herzegovina (BiH) was moving from a stabilization phase to one of integration into Euro-Atlantic institutions. The only question seemed to be when, not if, BiH would get into NATO and the EU. Defense reforms passed in the autumn of 2005 had begun in earnest, with the former warring armies and entity defense ministries dissolving and a new NATO-compatible, multi-ethnic, single armed force taking shape. Value added-tax was introduced with less trouble and greater success than in any other European country, increasing government revenues and reducing the gray economy. GDP growth remained strong and inflation low. A number of fugitives from the ICTY had surrendered to authorities in BiH after mysteriously arriving from Serbia and other countries. The state and entity parliaments had accepted the EU's principles for police reform and adopted a political agreement drafted by Republika Srpska (RS) politicians that allowed BiH to begin negotiations with the EU on a Stabilization and Association Agreement (SAA). In January 2006 the BiH Council of Ministers (CoM) appointed a Police Reform Directorate (PRD) that began developing the required implementation plan. And lastly, the BiH House of Representatives began considering constitutional modifications intended to improve the efficiency of state-level institutions in dealing with the reforms required to join NATO and the EU.

But by the time the PIC took its initial decision there were already signs of serious trouble ahead. Having announced the intention to leave and hand over "ownership" to the local authorities, the worst instincts of local politicians emerged. The constitutional amendments were the first to suffer when the party of Haris Silajdzic withdrew from the agreement it signed with other parties in Washington in November 2005; a small number of defectors from the other parties to the agreement were thus able to block the amendments with just two votes.

Problems with police reform emerged at roughly the same time: the government of Milorad Dodik that took control of the RS in March 2006 immediately disputed a voting mechanism in the PRD and decided RS representatives would participate only as observers. Nevertheless, Serbs from state-level institutions—some of them very close to Dodik—remained as full members and the PRD continued working.

There followed in short order Milorad Dodik's infamous suggestion that if Montenegro could become independent, as Kosovo might soon do as well, then RS citizens would be asking why couldn't they have a referendum on independence too? Dodik apparently liked the response he got from Serbs in the RS, and the international community, not taking Dodik seriously,

basically let-him get away with it. It was pre-election rhetoric from someone not thought to be an ardent nationalist, and he assured the then High Representative (HR) it would stop after the elections.

But it did not. On the Bosniak side, Haris Silajdzic, who had scuttled constitutional reform by convincing people that “entity-voting” in the parliament was a feature of the proposed amendments rather than a feature of Dayton, ran an election campaign on promising a “Bosnia without Entities” and the abolition of Republika Srpska as a “genocidal creation.” Such rhetoric fed into the paranoia of RS politicians and served to reinforce the passive-aggressive rhetoric of Dodik.

Police reform remained hostage to the resurgence of nationalist electioneering. The PRD managed to produce only a concept paper by its December deadline, and political leaders refused to allow their members of the BiH CoM to even discuss the matter. Attempts by the international community since then to facilitate a complete agreement in line with previously accepted EU conditions have failed mostly because Milorad Dodik and Haris Silajdzic have been unwilling to agree, while their national rivals have been either unwilling or unable to break with them.

Their failure to agree has been attributable to two things. First, each saw police reform as a proxy for constitutional reform. Silajdzic refused to agree to anything that would recognize the existence or legitimacy of the RS, despite it being a feature of Dayton. For his part, Dodik did not want to “give up” the RS Police because he believed it would weaken his position in any future talks on a new constitution. Second, it now seems clear that neither man wanted to give up the control of police they currently exercise through their parties’ participation in government. The fact that the two men eventually signed a meaningless agreement in contradiction with the EU’s conditions and without seeking support from their coalition partners was more about avoiding blame for failure than it was about meeting the EU’s conditions.

The end result is tragic. Despite the fact that SAA negotiations were successfully completed a year ago and all other EU conditions essentially met, BiH seems further than ever from the EU. The most influential politicians in BiH—Dodik and Silajdzic—prefer the isolation of BiH rather than having to meet the EU’s conditions for integration. I say tragic because more than 70% of BiH’s population wants to join the EU, but those same people expect the international community to make it happen rather than demand their leaders do the jobs for which they were elected.

Equally troubling is that the six parties in coalition at the state level are intent on moving forward on drafting a new constitution. Troubling because they blame Dayton-based structures for their inability to agree on police reform, even though those same structures did not prevent defense, intelligence, judicial, tax and other reforms adopted by the previous government. Nor do they recognize that failure to agree on police reform indicates they are probably not responsible enough to deal with something as serious as changing the BiH constitution, which is Annex 4 of Dayton. Their respective stances on constitutional reform are at great variance from each other, but all feature ideas on how to territorially divide up Bosnia. Sadly, most BiH politicians still see politics as a zero-sum game where the goal is to divide wealth amongst cronies rather than create wealth for the common good. They see politics as just an extension of the war by other means despite the fact that the public is interested in improving the economy and getting decent jobs.

Nowhere has the cynicism of politicians been more clearly evident than in the issues surrounding Srebrenica during the first half of this year. In late February, the International Court

of Justice (ICJ) rendered its verdict in the 14 year-old case of *BiH v. Serbia*. The ICJ determined that Serbia violated the Genocide Convention by not doing enough to prevent genocide at Srebrenica in July 2005, and was in further violation of international law for refusing to hand over Ratko Mladic, known to be in Serbia for most of the past nine years.

The verdict was deeply disappointing and disturbing to many Bosniaks. After all, the role of Belgrade in directing, financing, and supporting the war in BiH has been well documented. Undaunted by the limited verdict, President Silajdzic nevertheless claimed that the ICJ verdict required the abolition of the RS. The reaction of RS officials—despite clear statements by the international community that the ICJ verdict did NOT mean the end of the RS—was one of contrived paranoia. Certainly the movement by Bosniak politicians to detach Srebrenica from the RS and make it an independent district did not help, nor did threats by Federation war veteran organizations to send 10,000 veterans to Srebrenica to provide security for returnees there. The physical security situation in Srebrenica may have been calm for years, but the ICJ verdict awoke a sense of psychological insecurity among Bosniak returnees there and politicians exploited this to the full.

Only by a concerted effort of OHR and US officials was this volatile situation calmed down before threatened secession or an exodus of Bosniak returnees materialized. Certainly the HR's timely and astute appointment of Amb. Cliff Bond as his special envoy for Srebrenica helped turn the tide, and let me extend the HR's thanks to this committee and Fred Turner for letting him take on this task. Success has been achieved in two ways. The first has been by working with local authorities to provide real support for sustainable returns by increasing employment, developing business, and improving infrastructure and social services. The second has been by prodding state and RS authorities to finally deal in a serious and systematic way with the many of the perpetrators of the genocide who are still walking around free today, some of them even in police uniforms. In both of these areas Mr. Dodik's government has been helpful, despite his defiant and politically destabilizing behavior in other areas.

Let me speak briefly about war crimes issues. BiH and RS authorities are cooperating with the ICTY, but I choose these words carefully. Neither the BiH nor the RS authorities demonstrate any initiative in this area. Almost every action against ICTY fugitives and their support networks occurs at the suggestion of the international community or in response to international actions. Investigations against persons on the so-called "Srebrenica list" had to be spurred by OHR, as has the hiring of additional investigators, amendments to the criminal code, the suspension of police officers suspected of participation in war crimes, and the freezing of assets of war criminal supporters. On a slightly more positive note, the War Crimes Chamber of the Court of BiH has been dealing satisfactorily with those cases transferred to it by the ICTY.

Nevertheless, the real problem lies in Serbia, where most if not all of the remaining fugitives remain within reach of Serbian authorities. The June arrest of Zdravko Tolimir in BiH by RS police after his transfer from Serbia shows that Belgrade can deliver fugitives when and how it wants to. The fact that at numerous former and current ICTY fugitives have spent time in Serbia and other countries further complicates efforts to bring such people to justice.

In sum, the situation in BiH today is grim. Dodik and Silajdzic have no real interest in agreeing on the EU's police reform conditions for an SAA, despite a mildly encouraging declaration in Mostar last month. The fact is that eventual EU membership is just not enough of an incentive for leaders who are playing for high stakes in the short-term. The idea that these same leaders will agree on a new constitution that will promote political tranquility and prosperity in BiH is at best an illusion.

And now there is a possibility that by the end of this year there will be no effective peacekeeping force to maintain a safe and secure environment in BiH. By November 21st the UN Security Council must vote to renew the mandate of the EU peacekeeping force (EUFOR) in BiH, but its extension can not be assumed and could be tied to efforts to end OHR, despite the fact that it is *sui generis* from Dayton, and not a creature of the UN. Such a turn of events would make it easier for Banja Luka and Belgrade to realize RS secession from BiH in the event Kosovo becomes independent.

The contrived and deliberate over-reaction of RS politicians to measures announced by the HR on October 19 are part of the prelude for the drama to occur between November 21st and the period following the Kosovo Troika's report to the UN on December 10th. RS government officials will continue to egg on RS NGOs calling for independence, will seek to prevent state institutions from functioning, and will continue with legislative actions meant to facilitate eventual independence. Indeed, as part of this separation strategy, Serbian Prime Minister Kostunica stated that the HR's measures "endangered" Serbs in BiH and explicitly linked the idea of RS secession with Kosovo independence. This is explosively loaded language, as Milosevic and his henchmen used such terms to justify what he did as self-defense for Serbs. Of course there is no objective basis for the use of such language. The security situation in BiH has been calm for some time now, but may not continue to be so as politicians continue to sow distrust in the minds of ordinary people. Talk is rife now about how things are again like they were in 1991-92 and there have been reports that the RS Government is already preparing ballots for an independence referendum.

Failure to renew EUFOR's mandate or including OHR's termination in a UNSCR will play right into the hands of secessionists intent on abrogating Dayton and taking the region back to a very dark time. These people are betting on a weak response from the West, which they calculate is too busy with problems elsewhere. I hope you will agree that it would be monstrous to allow this to happen. Surely the International Community can ill-afford to have its successful post-conflict efforts in BiH over-turned into a humiliating defeat. Nor can it afford to allow images of people fleeing areas in which they are ethnic minorities, fearing the worst will happen again in the space of the same generation. Only robust and joined up action by the US and the EU can stop this madness from happening.

Thank you for your attention. I stand ready to answer any questions you may have.